

AMENDED IN ASSEMBLY JUNE 8, 2016

AMENDED IN SENATE APRIL 26, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1040

Introduced by Senator Hill

(Coauthor: Assembly Member Mullin)

February 12, 2016

An act to add Chapter 9 (commencing with Section ~~9220~~ 9221) to Part 2 of Division 13 of the Family Code, *and to add Section 272.5 to the Penal Code*, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

SB 1040, as amended, Hill. Adoptions: rehoming.

~~Existing~~

(1) *Existing* law regulates adoption services by the State Department of Social Services, county adoption agencies, licensed adoption agencies, and other adoption service providers and requires the department to adopt regulations pertaining to those services.

~~The bill would authorize an adoptive parent, individual, or entity having custody of an adopted minor to rehome, as defined, that minor if specified requirements are met. The~~

This bill would require the State Department of Social Services, in consultation with specified individuals and entities, to establish a working group to review the challenges facing families with adopted and special needs children, to identify resources within the community that will assist families with these challenges, and to make recommendations to the Legislature as to the services that may be helpful to these families. The bill would require the working group to

meet no later than June 1, 2017, and would require the working group's recommendations to be submitted in a report to the appropriate policy committees of the Legislature on or before June 1, 2018.

(2) *Existing law makes it a misdemeanor for a parent of a minor to willfully omit, without lawful excuse, to furnish necessary clothing, food, shelter, or medical attendance, or other remedial care for his or her child.*

This bill would make it a crime to solicit to rehome, as defined, a minor under 14 years of age and to subsequently rehome the minor without initiating a lawful guardianship proceeding or adoption proceeding within 90 days of taking physical custody of the minor. By creating a new crime, this bill would impose a state-mandated local program.

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 9 (commencing with Section ~~9220~~) 9221)
2 is added to Part 2 of Division 13 of the Family Code, to read:

3
4 CHAPTER 9. REHOMING

5
6 ~~9220. (a) For purposes of this chapter, "rehome" or "rehoming"~~
7 ~~means an action taken to provide a new, permanent home for an~~
8 ~~adopted minor with a person or persons other than the adoptive~~
9 ~~parents, except as provided in subdivision (c).~~

10 ~~(b) An adoptive parent, individual, or entity having custody of~~
11 ~~an adopted minor may rehome that minor only if both of the~~
12 ~~following requirements are met:~~

13 ~~(1) The adoptive parent, individual, or entity having custody of~~
14 ~~the minor and the prospective parent or guardian both obtain~~
15 ~~independent counsel within 60 days of placing the minor in the~~
16 ~~physical custody of the prospective parent or guardian.~~

1 ~~(2) The adoptive parent, individual, or entity having custody of~~
2 ~~the minor initiates a lawful guardianship or adoption proceeding~~
3 ~~within 90 days of placing the minor in the physical custody of the~~
4 ~~prospective parent or guardian, consistent with the requirements~~
5 ~~of Division 4 (commencing with Section 1400) of the Probate~~
6 ~~Code or Division 13 (commencing with Section 8500) of the~~
7 ~~Family Code.~~

8 ~~(c) This section does not apply to either of the following:~~

9 ~~(1) A child placed with a relative, as defined by paragraph (2)~~
10 ~~of subdivision (c) of Section 361.3 of the Welfare and Institutions~~
11 ~~Code.~~

12 ~~(2) Temporary placement of a minor by a parent, individual, or~~
13 ~~entity for a designated short-term period with a specified intent~~
14 ~~and time period for return of the minor, if the temporary placement~~
15 ~~is due to a vacation or a school-sponsored function or activity or~~
16 ~~the incarceration, military service, medical treatment, or incapacity~~
17 ~~of a parent or guardian.~~

18 9221. (a) The Legislature acknowledges that adoptive families
19 often face special challenges. This is particularly true in the case
20 of international adoptions, adoptions of special needs children,
21 and adoptions of dependent children who often have experienced
22 abuse, neglect, and multiple placements. The Legislature finds and
23 declares that it is the public policy of the State of California to
24 assist adoptive families and adopted children, and intends this
25 section to ensure that these families receive the support needed to
26 maintain the family unit, and when necessary, find new, permanent
27 homes for youth.

28 (b) (1) In order to address and prevent the circumstances in
29 which an adoptive parent, individual, or entity having custody of
30 an adopted minor seeks to rehome the minor, the State Department
31 of Social Services shall, in consultation with child advocacy
32 organizations, attorneys specializing in adoption and guardianships,
33 the Judicial Council, foster caregiver organizations, and individuals
34 with expertise in the area of positive youth development, establish
35 a working group to review the challenges facing families with
36 adopted and special needs children, to identify resources within
37 the community that will assist families with these challenges, and
38 to make recommendations to the Legislature as to the services that
39 may be helpful to these families.

(2) In developing the recommendations, the working group shall consider all of the following:

(A) The specific challenges facing the following families: families with special needs children, families with children adopted through the foster care system, and families with internationally adopted children.

(B) The distinct resources that are available to the different types of families specified in subparagraph (A), and whether any of the resources available to one type of family would also be beneficial to another type.

(C) The training and education that is necessary to equip mental health professionals with the tools necessary to provide the families specified in subparagraph (A) with services tailored to their unique needs.

(D) How to effectively recruit more prospective adoptive families that are able to provide new, permanent, and loving homes to children coming out of disrupted adoptions.

(E) The feasibility of creating a clearinghouse of persons and entities that are knowledgeable in addressing the needs of, and finding subsequent placements for, children at risk of being rehomed, including adoption agencies, social workers, attorneys, mental health professionals, and prospective adoptive parents.

(c) (1) The working group shall meet no later than June 1, 2017. The recommendations developed pursuant to this section shall be submitted in a report to the appropriate policy committees of the Legislature on or before June 1, 2018.

(2) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(3) The requirement for submitting a report pursuant to this subdivision is inoperative on June 1, 2022, pursuant to Section 10231.5 of the Government Code.

SEC. 2. Section 272.5 is added to the Penal Code, to read:

272.5. (a) It is unlawful for a person to solicit by any means, including, but not limited to, electronic communication via the Internet, to rehome a minor under 14 years of age and to subsequently rehome the minor without initiating a lawful guardianship proceeding or adoption proceeding within 90 days of taking physical custody of the minor consistent with the requirements of Division 4 (commencing with Section 1400) of the

1 *Probate Code or Division 13 (commencing with Section 8500) of*
2 *the Family Code. A violation of this section is punishable by*
3 *imprisonment pursuant to subdivision (h) of Section 1170, in a*
4 *county jail not exceeding one year, by a fine not exceeding one*
5 *thousand dollars (\$1,000), or by both that fine and imprisonment.*

6 *(b) For purposes of this section, “rehome” means an action*
7 *taken to provide a new, permanent home for a minor with a person*
8 *or persons other than the minors parents, except as provided in*
9 *subdivision (c).*

10 *(c) This section does not apply to either of the following:*

11 *(1) A minor placed with a relative, as defined by paragraph (2)*
12 *of subdivision (c) of Section 361.3 of the Welfare and Institutions*
13 *Code.*

14 *(2) Temporary placement of a minor by a parent, individual,*
15 *or entity for a designated short-term period with a specified intent*
16 *and time period for return of the minor, if the temporary placement*
17 *is due to a vacation or a school-sponsored function or activity or*
18 *the incarceration, military service, medical treatment, or incapacity*
19 *of a parent or guardian.*

20 *SEC. 3. No reimbursement is required by this act pursuant to*
21 *Section 6 of Article XIII B of the California Constitution because*
22 *the only costs that may be incurred by a local agency or school*
23 *district will be incurred because this act creates a new crime or*
24 *infraction, eliminates a crime or infraction, or changes the penalty*
25 *for a crime or infraction, within the meaning of Section 17556 of*
26 *the Government Code, or changes the definition of a crime within*
27 *the meaning of Section 6 of Article XIII B of the California*
28 *Constitution.*